



Reprinted
January 21, 2004

SENATE BILL No. 52

DIGEST OF SB 52 (Updated January 20, 2004 3:10 pm - DI 52)

Citations Affected: IC 13-11; IC 13-24.

Synopsis: Disposal of contaminated soil. Requires notice to the county executive of the proposed movement from a different county of soil contaminated with petroleum to a site that is not a state permitted landfill, solid waste disposal facility, transfer station, or hazardous waste facility in the county. Prohibits movement of the soil until at least 14 days after the notice. Requires the department of environmental management to monitor the movement.

Effective: July 1, 2004.

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November 21, 2003, read first time and referred to Committee on Environmental Affairs.
January 13, 2004, amended, reported favorably — Do Pass.
January 20, 2004, read second time, amended, ordered engrossed.

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SB 52—LS 6112/DI 52+



Reprinted
January 21, 2004

Second Regular Session 113th General Assembly (2004)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2003 Regular Session of the General Assembly.

SENATE BILL No. 52

A BILL FOR AN ACT to amend the Indiana Code concerning environmental law.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 13-11-2-206 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 206. "Solid waste
3 disposal facility", for purposes of IC 13-19-3-8.2, IC 13-20-4, ~~and~~
4 IC 13-20-6, **and IC 13-24-1**, means a facility at which solid waste is:

- 5 (1) deposited on or beneath the surface of the ground as an
6 intended place of final location; or
7 (2) incinerated.

8 SECTION 2. IC 13-24-1-1 IS AMENDED TO READ AS
9 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. (a) **Subject to**
10 **section 2.5 of this chapter**, the commissioner may issue an order
11 under:

- 12 (1) IC 13-14-2-7;
13 (2) IC 4-21.5-4; or
14 (3) IC 4-21.5-3-6;

15 to require an owner or operator or a responsible person to undertake
16 removal or remedial action with respect to a release of petroleum at a
17 petroleum facility.

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(b) **Subject to section 2.5 of this chapter**, if the commissioner determines that the removal or remedial action will be done properly and promptly by the owner, operator, or responsible person, the commissioner may enter into an agreed order with the owner, operator, or responsible person to implement necessary removal or remedial action.

(c) If the commissioner and the owner or operator or the responsible party fail to agree on the appropriate and necessary removal or remedial action to be taken, the dispute shall be resolved under IC 4-21.5.

SECTION 3. IC 13-24-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. (a) Except as provided in subsection (c) **and subject to section 2.5 of this chapter**, the commissioner may undertake removal or remedial action with respect to a release of petroleum at a petroleum facility if:

(1) the action is necessary, in the judgment of the commissioner, to protect human health and the environment; and

(2) a person cannot be found not later than ninety (90) days after the suspected or confirmed release is identified who is:

(A) an owner or operator of the petroleum facility or a responsible person; and

(B) capable of properly carrying out removal or remedial action with respect to the release.

(b) In undertaking removal or remedial action under subsection (a), the commissioner shall give priority to releases of petroleum from a petroleum facility that pose the greatest threat to human health and the environment.

(c) **Subject to section 2.5 of this chapter**, the commissioner may undertake or require removal or remedial action with respect to a release of petroleum into the environment if it is determined that an emergency exists under IC 4-21.5-4.

SECTION 4. IC 13-24-1-2.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 2.5. (a) This section applies to the movement of soil contaminated with petroleum from the site of the petroleum facility from which the contamination originated to a site that is not a state permitted landfill, solid waste disposal facility, transfer station, or hazardous waste facility in a different county:**

(1) under an:

(A) order; or

(B) agreed order;

issued or entered into under section 1 of this chapter; or

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(2) as part of work undertaken by the commissioner under section 2 of this chapter.

(b) A person that proposes to move soil as described in subsection (a)(1):

(1) shall notify in writing the executive of the county to which the soil is proposed to be moved of:

(A) the site to which the soil is proposed to be moved; and

(B) the proposed date of the move; and

(2) may not move the soil until at least fourteen (14) days after the date of the notification under subdivision (1).

(c) If the commissioner proposes to move soil as described in subsection (a)(2), the commissioner:

(1) shall notify in writing the executive of the county to which the soil is proposed to be moved of:

(A) the site to which the soil is proposed to be moved; and

(B) the proposed date of the move; and

(2) may not move the soil until at least fourteen (14) days after the date of the notification under subdivision (1).

(d) The commissioner shall monitor the movement of soil as described in subsection (a)(1) to ensure that the movement conforms to the order or agreed order.

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COMMITTEE REPORT

Madam President: The Senate Committee on Environmental Affairs, to which was referred Senate Bill No. 52, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 2, line 29, after "site" insert "**that is not a state permitted landfill**".

Page 2, delete lines 37 through 42, begin a new paragraph and insert:

"(b) A person that proposes to move soil as described in subsection (a)(1):

(1) shall notify in writing the executive of the county to which the soil is proposed to be moved of:

(A) the site to which the soil is proposed to be moved; and

(B) the proposed date of the move; and

(2) may not move the soil until at least fourteen (14) days after the date of the notification under subdivision (1).

(c) If the commissioner proposes to move soil as described in subsection (a)(2), the commissioner:

(1) shall notify in writing the executive of the county to which the soil is proposed to be moved of:

(A) the site to which the soil is proposed to be moved; and

(B) the proposed date of the move; and

(2) may not move the soil until at least fourteen (14) days after the date of the notification under subdivision (1).

(d) The commissioner shall monitor the movement of soil as described in subsection (a)(1) to ensure that the movement conforms to the order or agreed order."

Page 3, delete lines 1 through 23.

and when so amended that said bill do pass.

(Reference is to SB 52 as introduced.)

GARD, Chairperson

Committee Vote: Yeas 7, Nays 0.

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SENATE MOTION

Madam President: I move that Senate Bill 52 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 13-11-2-206 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 206. "Solid waste disposal facility", for purposes of IC 13-19-3-8.2, IC 13-20-4, ~~and~~ IC 13-20-6, **and IC 13-24-1**, means a facility at which solid waste is:

- (1) deposited on or beneath the surface of the ground as an intended place of final location; or
- (2) incinerated."

Page 2, line 30, delete "landfill" and insert "**landfill, solid waste disposal facility, transfer station, or hazardous waste facility**".

Re-number all SECTIONS consecutively.

(Reference is to SB 52 as printed January 14, 2004.)

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